

Meeting of 2009-6-9 Regular Meeting

MINUTES

LAWTON CITY COUNCIL REGULAR MEETING  
JUNE 9, 2009 6:00 P.M.  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John P. Purcell, Jr.                      Also Present:  
Presiding                      Larry Mitchell, City Manager  
   Frank Jensen, City Attorney  
   Traci Hushbeck, City Clerk

COL Ray Lacey, Fort Sill Liaison.

Mayor Purcell called the meeting to order at 6:14 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Sr. Pastor Bob Jones, Cameron Baptist Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:                      Bill Shoemate, Ward One  
James Hanna, Ward Two  
Janice Drewry, Ward Three  
Jay Burk, Ward Four  
Robert Shanklin, Ward Five  
Richard Zarle, Ward Six  
Stanley Haywood, Ward Seven  
   Doug Wells, Ward Eight

ABSENT:                      None

ROLL CALL

PRESENTATION FROM SR. PASTOR DON BARNES, LAWTON FIRST ASSEMBLY AND SR. PASTOR BOB JONES, CAMERON BAPTIST CHURCH, REGARDING THE I LOVE AMERICA CELEBRATION.

Pastor Barnes announced that this will be the third year for the event. A DVD presentation was made.

AUDIENCE PARTICIPATION: None

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF APRIL 14, 2009.

MOVED by Drewry, SECOND by Burk, to approve the minutes of April 14, 2009. AYE: Haywood, Wells, Shoemate, Hanna, Drewry, Burk, Shanklin, Zarle. NAY: None. MOTION CARRIED.

CONSENT AGENDA: The following items are considered to be routine by the City Council and will be enacted with one motion. Should discussion be desired on an item, that item will be removed from the Consent Agenda prior to action and considered separately.

Shanklin requested items #9 and #10 be considered separately.

MOVED by Drewry, SECOND by Burk, to approve the Consent Agenda with the exception of items #9 and #10. AYE: Wells, Shoemate, Hanna, Drewry, Burk, Shanklin, Zarle, Haywood. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval and consider passage of the resolution authorizing the City Attorney to file a friendly suit for the claims which are over \$400.00: James and Nancy Elliott in the amount of \$160.00, Robert and Susan Zwaan in the amount of \$250.00, and Pat Norrell, on behalf of Woodland Hills Town House Association Part B in the amount of \$400.00. Exhibits: Legal opinions/Recommendations.

2. Consider renewing the Retainer Agreement for Professional Services with Granville D. Long, to provide professional investigative services to the City of Lawton, and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Proposed Agreement.

3. Consider approval of the Retainer Agreement for Legal Services between the City of Lawton and Clay Hillis and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Retainer Agreement for Professional & Legal Services on file in City Clerk's Office.

4. Consider renewing the professional services agreement with James C. Ferguson of Walker, Ferguson and Ferguson for the defense of Workers' Compensation claims. Exhibits: Retainer Agreement for Professional & Legal Services on file in the City Clerks Office.

5. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in directing our third party administrator to make payment on the judgment in the Workers' Compensation case of Kevan James in the Workers' Compensation Court, Case No. 2007-12800 K. Exhibits: **Resolution No. 2009-57**.

6. Consider approving a renewal Agreement effective July 1, 2009 through June 30, 2010 between the State of Oklahoma Office of Juvenile Affairs and the City of Lawton for the continued operation and management of a Community Intervention Center in Lawton, and authorize execution of the renewal Agreement and an Affidavit of Assignment authorizing payment directly from the State to Marie Detty as the CIC subcontractor. Exhibits: Renewal Agreement and Affidavit of Assignment on file in City Clerk's Office.

7. Consider approving a renewal Agreement between the City of Lawton and the Marie Detty Youth and Family Service Center, Inc. for the continued operation and management of the Community Intervention Center in Lawton and authorize execution of the renewal Agreement and any associated documents. Exhibits: Agreement with Marie Detty Youth and Family Service Center, Inc., is on file in the City Clerks Office.

8. Consider approving annual contract renewals between the City of Lawton and the following: County Commissioners (re: Juvenile Detention Center); J. Roy Dunning (re: Children's Shelter); and Roadback (re: Detoxification Center); Lawton Crimestoppers, Inc. (re: Funds from sale of property in police custody). Exhibits: Copies of contracts are located in the City Clerk's Office for review.

9. Approve Meyer Architecture Plus RFP #7 which, upon approval, will be incorporated as Change Order #4 for Phase II of the CJHS Restoration Project, and authorize J. L. Walker Construction, Inc. to commence work as indicated within the proposal. Exhibits: Architect's request for proposal: RFP #7, dated March 13, 2009 and General Contractor's Response: RFP #7, dated March 26, 2009.

Shanklin questioned who decided that they were going to make these changes.

Mitchell stated there is a recommendation from Meyer Architect. Regarding this item, under Phase I we received some additional money and decided to install a sprinkler system to protect the entire building and this change order has to do with that system that was installed. He stated they are doing this building in phases.

Shanklin stated no one on this council could pass a test on what is going on there.

Mitchell stated they have been talking about this for four years and the City Council has approved all of the contracts. Phase I was done by the Lawton Public Schools and Phase II was approved by the City Council a year and a half ago.

Shanklin questioned if the citizens and the City Council has a liaison to look out for their interest.

Mitchell stated yes and it is this Council. There are construction meetings every two weeks and he provides the councilmembers with notes from those construction meetings. He has invited the councilmembers to go through the building on several occasions. They are trying to close out on Phase I and proceeding on Phase II.

Shanklin stated generally there would be someone on the job site to talk to. They do not have that.

Mitchell stated they do not have that.

Shanklin there are always things that get looked over.

Gary Armbruster, Meyer Architecture Plus, stated he started working on this project with Lawton Public Schools back in 1999. His firm has been in business over forty years and they specialize in historic preservation projects.

Shanklin stated he is not criticizing anything that has happened. He questioned who paid for the staircase when they had to take it down and modify it.

Mr. Armbruster stated the contractor paid for it to be replaced. It was several thousand dollars and eventually they let the job superintendent go that was on site. He stated they punch listed Phase I today and things are going smoothly and it should be completed within the next few weeks.

Mitchell stated there will be small event next Wednesday, June 17th at 9:30 and everyone will have the opportunity to walk through the building and take a tour.

Burk stated he has been through the building several times and it is a wonderful building and they should all be proud.

Mayor Purcell thanked the citizens of Lawton who approved this project under the CIP program and to the McMahon Foundation who has donated over \$4 million to the project.

MOVED by Shanklin, SECOND by Zarle, to approve items #9 and #10. AYE: Shoemate, Hanna, Drewry, Burk, Shanklin, Zarle, Haywood, Wells. NAY: None. MOTION CARRIED.

10. Approve Meyer Architecture Plus RFP #8 which, upon approval, will be incorporated as Change Order #4 for Phase II of the CJHS Restoration Project, and authorize J. L. Walker Construction, Inc. to commence work as indicated within the proposal. Exhibits: Architect s request for proposal: RFP #8, dated April 10, 2009 and General Contractor s Response: RFP #8, dated April 13, 2009.

11. Approve Meyer Architecture Plus RFP #9 which, upon approval, will be incorporated as Change Order #4 for Phase II of the CJHS Restoration Project, and authorize J. L. Walker Construction, Inc. to commence work as indicated within the proposal. Exhibits: Architect s request for proposal: RFP #9, dated March 16, 2009 and General Contractor s Response: RFP #9, dated April 13, 2009.

12. Consider approval of Grant Agreement 3-40-0051-024-2009 for the Lawton-Ft Sill Regional Airport. Exhibits: Grant application.

13. Consider approving agreements for euthanization services with the following entities, and authorize the Mayor and City Clerk to execute the Agreements: City of Grandfield and Town of Medicine Park. Exhibits: Agreements are on file with the City Clerk.

14. Consider approving agreements for refuse disposal with the following entities, and authorize the Mayor and City Clerk to execute the Agreements: Town of Indianahoma, Multiple Community Services Authority and Town of Temple. Exhibits: Agreements are on file with the City Clerk.

15. Consider approving a credit adjustment in the amount of \$1,130.08 to Branden W. Thomas utility account #00014338 for the property at 2006 NW Taft Avenue for an undetected, underground leak on the customer s water service line. Exhibits: Billing statement from Roberts Repair Master Plumbing dated 12/24/08 and Copies of Mr. Branden s service bills.

16. Consider approving a credit adjustment in the amount of \$547.00 to Edwinta Cathey s utility account #00024855 for the property at 916 SW 5th Street for an undetected, underground leak on the customer s water service line. Exhibits: Billing statement from Towers Plumbing dated 02/02/2009.

17. Consider approving a credit adjustment in the amount of \$4,011.41 to the VFW Post #5263 s utility account #00006089 for the property at 101 NE 20<sup>th</sup> Street for an undetected, underground leak on the customer s water service line. Exhibits: Billing statement from Andy s Plumbing dated 02/26/2009.

18. Consider approving plans and specifications for the 2008 CIP Residential Street Phases 1 & 2 Project #2009-1 and authorizing staff to advertise for bids. Exhibits: None.

19. Consider approving the Oklahoma Department of Transportation (ODOT) Change Order No. 2 for the NW 67<sup>th</sup> Street (Cache Road to Rogers Lane) Project #2003-7. Exhibits: None.

20. Consider acknowledging receipt of a permit for the construction of waterlines and appurtenances from the Oklahoma Department of Environmental Quality to serve the 2008 CIP Waterline Replacement Phases 1 & 2 Project #2008-12, City of Lawton, Comanche County, Oklahoma. Exhibits: Permit to Construct dated may 8, 2009.

21. Consider approving the record plat for Oak Pointe Addition, Part 1B, and accepting the improvements, easements, and maintenance bonds. Exhibits: Plat Map. Maintenance Bond and Easements on file in City Clerk s Office.

22. Consider approving the construction plat for Sungate Addition, Part 10, subject to conditions. Exhibits: Plat Map.

23. Consider approving appointments to boards and commissions. Exhibits: None.

**Arts and Humanities Council**

Jim Whiteley David Fennema  
120 NW 44<sup>th</sup> Street 7311 NW Crestwood Drive  
Lawton, Oklahoma 73505 Lawton, Oklahoma 73505  
06/30/12 06/30/12

Cynthia Kent  
PO Box 42  
Lawton, Oklahoma 73502  
06/30/12

**Citizens' Advisory Committee On Capital Improvement Program (CIP)**

Whittie Rainwater  
1613 NW 25th Street  
Lawton, Oklahoma 73505  
06/27/12

**Enhancement Trust Authority**

Debbie Munkacsy Dr. Robert Kern  
1616 NW 36<sup>th</sup> Street 3108 NE Heritage  
Lawton, Oklahoma 73505 Lawton, Oklahoma 73507  
06/28/12 06/28/12

**Industrial Development Authority**

Randy Warren Stanley Haywood  
6513 NW Columbia 3320 SW Salinas Drive  
Lawton Oklahoma 73505 Lawton, Oklahoma 73501  
05/25/14 05/25/14

Bob Shanklin Rex Givens  
406 NW Ferris Avenue 4623 NE Columbia  
Lawton Oklahoma 73507 Lawton, Oklahoma 73507  
05/25/14 05/25/14

**Mayor s Commission On The Status Of Women**

Ruby Jones-Sims Kay Wallace  
Ward 7 Ward 7  
603 SW Cody Place 1507 SW 7<sup>th</sup> Street  
Lawton, Oklahoma 73501 Lawton, Oklahoma 73501  
06/28/11 06/28/11

Judy Allison-Nesiba  
Western County  
PO Box 386  
Medicine Park Oklahoma  
06/26/11

**McMahon Auditorium Authority**

Earnest Godlove Peggy Hofmann  
802 SW C Avenue 7109 NW Birch Place  
Lawton, Oklahoma 73501 Lawton Oklahoma 73505  
06/30/12 06/30/12

Allan Jolly David Sandstrom  
374 SE Willow Lane 6611 NW Willow Tree Circle  
Lawton Oklahoma 73501 Lawton Oklahoma 73505  
06/30/12 06/30/12

24. Consider approval of payroll for the period of May 18 - 31, 2009.

## OLD BUSINESS ITEMS:

25. Consider accepting a boathouse, 14X40 in size, estimated value at \$51,000, donated by Jason A. Buschman and approve staff recommendation to permit use of boathouse exclusively by city employees as a benefit of their employment. Exhibits: Letter of request from Jason A. Buschman, D.D.S.

Kim Shahan, Parks and Recreation Department, stated the staff would like to make a different recommendation associated with this project. He stated that Dr. Buschman would like the City to use this structure, he is not interested in the City selling it. Staff would recommend that the boathouse become a public use facility for fishing and could be used for overnight stays. It is right next to the group use facility at Robinsons s Landing. He stated tonight the City Council would need to receive this item as a gift and staff will bring back a fee structure for approval.

Wells stated this would be available for all citizens.

Shahan stated that is correct.

Shanklin questioned who would own the boathouse and does the City have to pay a fee to dock it.

Hanna stated the City of Lawton would own the boathouse.

Jensen stated there would be no fees.

Drewry questioned if this posed any liability for the City of Lawton.

Jensen stated we are a self insured municipality and if someone gets hurt we could have potential liability.

Hanna questioned if the user would have to sign a waiver.

Jensen stated he wouldn t recommend that. They need to just keep the facility safe and let people pay their fee and use it.

Shahan stated we have eight docks right now and this would be no different than using those existing docks.

MOVED by Wells, SECOND by Hanna, to receive a boathouse donated by Dr. Buschman and direct staff to bring back a fee schedule for use of the boathouse by any citizen of Lawton. AYE: Hanna, Drewry, Burk, Shanklin, Zarle, Haywood, Wells, Shoemate. NAY: None. MOTION CARRIED.

## NEW BUSINESS ITEMS:

26. Hold a Public Hearing for 2009 Department of Justice Edward Byrne Assistance Grant (JAG). Exhibits: Equipment List.

Deputy Chief Mike Johnson, Lawton Police Department, stated a list of items was included in the agenda packet. This is not the standard local solicitation that they get every year. This is a special one from the new administration. Our part is approximately \$465,000. They went out to departments and solicited input from the rank and file. He, Chief Smith and Deputy Chief Apple sat down and went through all of the requests and determined what was best for the department.

Wells questioned if the list was in cement once approved.

Johnson stated after this meeting he will submit the paperwork electronically to the federal government. They cannot ask for additional items without some type of special approval, but as long as they stay in the parameters of the total amount of money they could adjust the list.

Wells questioned if anyone has coordinated the mapping system with our new GIS person or the 911 mapping system.

Johnson stated that is a device they would take to a crime scene or an accident scene and determine where the evidence is so they can recreate that on a computer.

Mayor Purcell clarified that none of this money can be used to hire police officers.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Zarle, SECOND by Shoemate, to approve the use of the grant. AYE: Drewry, Burk, Shanklin, Zarle, Wells, Shoemate, Hanna. NAY: None. ABSENT: Haywood. MOTION CARRIED.

27. Hold a public hearing and consider approving an ordinance closing the portion of the alley adjacent to Lots 1 3, Block 5, McClung Addition, also known as 902 SW Lee Boulevard. Exhibits: Ordinance No. 09-\_\_\_, Application and Location Map.

Richard Rogalski, Planning Director, stated on April 28<sup>th</sup> a public hearing date was set to consider the application to close the alley adjacent to lots 1, 2 and 3 and lots 14, 15 and 16 within the McClung Addition. Recently there has been some development further down the alley and with that development has come a little more traffic in the alley and the church feels this has become a safety matter. The intention of the applicant is to close the alley only to vehicular traffic. It would still remain as an alley as far as utilities. They plan to put a gate in the alley and provide a public access easement down to lot 13 out to Washington Avenue. Generally, the policy of the City is if someone wishes to close an alley, if they are willing to reroute the alley and they own both sides of the alley, we typically recommend approval. Staff is recommending approval of this item. He stated Centerpointe Energy and the Public Works Department have no objections. PSO/AEP originally had some concerns, however those concerns have been worked out. He stated AT&T does still object to the closing.

Haywood stated that Pastor Brooks works for Centerpointe Energy as a construction person and he is aware that you cannot close that alley completely by putting up gates. He stated this is a safety issue. He stated this is a win-win situation for everyone involved.

Shoemate questioned if there was any need for this access coming out on Washington.

Rogalski stated that would result in a dead end alley.

Shoemate stated he uses that car wash and he always goes back out west.

Rogalski stated the patrons to the car wash are encouraged to go that way, but not everyone does. He stated it is up to the City Council if they want to accept that alley. He stated you cannot turn around so having a public alley that dead ends is not a good idea.

PUBLIC HEARING OPENED.

Christy Rush, 913 Washington, stated she does not have any objection to rerouting the traffic, but she does have a problem rerouting it to Washington. She thinks the traffic should go back to Lee Boulevard. There have been numerous wrecks at 10<sup>th</sup> and Lee. If they go out on Washington, this will create traffic down to 6<sup>th</sup> Street.

Pastor Brooks, Sr. Pastor of Mt. Calvary Baptist Church, stated he is very thankful to Mr. McMurry, the owner of the car wash, who has really worked with them to resolve some of these issues. They want to see all of the businesses succeed and be successful and they really want to find a solution that will resolve this issue. When the church lets out, all of the members flow out into this alley and it is very dangerous. They considered the option of exiting on Lee but they do not have control over that lot. He stated generally traffic now has been flowing out on 9<sup>th</sup> Street and a lot will turn out on Washington. They have young children that will run out of the doors and they are fearful that someone will be run over and killed. He stated they would consider a master key to the gate distributed to the utility companies for their access.

Haywood questioned Pastor Brooks title with Centerpoint Energy.

Pastor Brooks stated he is a construction supervisor. He is very familiar with the need for easements and the need for access to those easements. They want to be good neighbors to those in the community and to the utility companies.

Ms. Rush questioned who had control over lot 3 where it could be directed back onto Lee.

Pastor Brooks stated they do not own lot 3, as far as he knows it is owned by the Church of God. He stated they own lots 1, 2, 13, 14, 15 and 16. He stated the Church of God sold these lots to another individual who in turn sold it to them. That is how they obtained these lots.

Ms. Rush stated this is the only lot owned by the Church of God.

Mayor Purcell questioned where all the traffic from the west was coming from. Are these the people that live back there?

Pastor Brooks stated if the traffic could come in and flow out onto Lee without providing that road then they would

be satisfied.

Mayor Purcell questioned if the alley to west was paved.

Pastor Brooks stated yes. There are people who drive through the alley as a shortcut. They would be satisfied if they did not have to provide that access road.

Ms. Rush stated she has a utility pole that sits 18 feet onto her property from the east end. To get a trailer in her yard you have to come from the east or the west. If that access is shut off this would hinder their access.

Haywood stated even if they put in a gate, Ms. Rush will still be able to get into her back yard.

Pastor Brooks stated he would be happy to give Ms. Rush a key to the gate.

Raymond McMurry, 817 NW 76<sup>th</sup> Street, stated he owns the car wash and he believes this item is just to close the alley not the extension. He supports Pastor Brook in closing the alley now and maybe putting in the extension twenty years from now. He stated there is plenty of room to turn around and Ms. Rush could have a key to the gate. This should make everyone happy.

PUBLIC HEARING CLOSED.

Jensen stated there are two conditions that are contained in the ordinance.

Rogalski stated if they do not require the extension of the alley in any direction, they would have to modify the ordinance.

Jensen stated right now the ordinance has a provision for the 20-foot wide access easement and a requirement to pave that access easement.

Haywood questioned if they would need to pave that easement.

Jensen stated that is what the arrangement is up to this point. He does not know what the arrangement is tonight.

Rogalski stated the issue to accept the easement is the next agenda item. Part of the ordinance is to agree to dedicate the alley. He stated he is hearing that maybe the new extension is not necessary at this point. In that case they would need to modify the ordinance.

Jensen stated there is a requirement for a 20-foot wide easement and a paving requirement in the ordinance right now.

Drewry stated she thought they were just closing the alley and forgetting about the extension.

Jensen questioned if the church is still agreeing on the 20-foot wide access easement and the paving requirement. They need to be sure about this.

Pastor Brooks stated he is hearing that it is fine with Mr. McMurry and that as long as Ms. Rush has access it would be okay. That would prevent the traffic from going out on Washington and it can go back out onto Lee. He feels this would be a good solution.

Jensen stated he has heard the same as Councilmember Drewry. He wants everyone to understand the requirements.

Pastor Brooks stated they would recommend taking out the requirement for the access easement.

Mayor Purcell recommended they bring this item back at the next meeting and that all parties involved get together and rewrite the ordinance.

PUBLIC HEARING WAS REOPENED.

MOVED by Haywood, SECOND by Drewry, to continue the public hearing and table until June 23, 2009. AYE: Burk, Shanklin, Zarle, Haywood, Wells, Shoemate, Hanna, Drewry. NAY: None. MOTION CARRIED.

28. Consider accepting an access easement from Mt. Calvary Baptist Church for a 20-foot drive to be located on the west 20 feet of Lot 14, Block 5, McClung Addition. Exhibits: Location Map. Access Easement on file in City Clerk s Office. **THIS ITEM WAS STRICKEN FROM THE AGENDA.**

29. Consider reviewing and approving the City of Lawton Fiscal Year 2009-2010 budget and approving a resolution adopting the FY 2009-2010 City of Lawton budget. Exhibits: List of adjustments and changes, final budget summary and Resolution No. 09- \_\_\_\_ will be distributed at Council meeting.

Rick Endicott, Finance Director, distributed the resolution and a listing of changes they have made along the way. He also distributed a budget summary and a summary of hotel/motel tax dollars. He stated as it stands they have the Lawton Chamber of Commerce at \$798,000, Northside Chamber at \$80,000, Economic Development Fund at \$459,500, the Tourism Fund has a balance of \$170,500. The Lawton Enhancement Trust Authority has \$57,000. There is a balance of \$630,000 with the combination of tourism and economic development. He stated several years ago they used to adopt the budget with all of the details. Crawford and Associates helped them develop this format which is used throughout the state. He stated during the budget process they primarily talked about an \$80 million budget. This includes all of the funds including \$34 million of CIP projects. The projected carry over for the general fund is \$3,317,000. The projected carry over for the end of the fiscal year 2009-2010 is \$337,271.

Wells questioned under emergency communications, is \$896,945 the maximum they can spend?

Endicott stated within that fund. Everything is driven by fund and that is the appropriation level.

Wells stated that number does not show up in their budget anywhere. He was trying to figure out how you match the numbers up.

Mayor Purcell stated under the cellular phone service there is another \$410,000 that is available.

Wells stated the \$410,000 shows up in their budget.

Endicott stated there may be some adjustments made along the way.

Wells stated that nothing was changed in emergency communications.

Julie Magness, Financial Services Supervisor, stated the \$896,000 is what emergency communications will receive. Part of this comes from Comanche County and the other portion is what they receive from 911 fees. The remaining part of their budget is the \$410,000 which shows up in the cellular fee fund.

Wells stated it is only a few dollars difference, in the budget it shows \$897,000.

MOVED by Drewry, SECOND by Burk, to adopt **Res. 09-58** adopting the FY 2009-2010 City of Lawton budget. AYE: Burk, Shanklin, Zarle, Haywood, Shoemate, Hanna, Drewry. NAY: Wells. MOTION CARRIED.

30. Consider approving an application for Access to a Limited Access Roadway for 5901 SW Lee Boulevard and consider their request for a variance to eliminate the requirement for construction of a right-turn lane and left-turn bay on Lee Blvd. Exhibits: Location Map, Completed Application, Letter from New Light Methodist Church, Letter from Rep. Loyd Benson dated November 19, 1987.

Rogalski stated this is located on Lee Boulevard west of 52<sup>nd</sup> Street. The site is being developed as New Light Methodist Church. Lee Boulevard at that location is a limited access roadway and when the right of way was acquired by ODOT, it was acquired with access restrictions and there are only a specific number of accesses that were allowed. Those accesses were indicated on the plans for Lee Boulevard. Those plans do not show an access at this location. This property was purchased about thirty years ago for the purpose of constructing a church on this site and now this project has come to fruition. The location of the site does meet all of the policy requirements, so they do agree that the location is sound. The church did submit a letter to staff requesting relief from the construction of a right turn deceleration lane and left turn lane. There is a left turn bay that was constructed for the traffic heading south on Mark Edwards Drive, so that westbound traffic can pull into the left turn lane and turn to the south. For eastbound traffic there is no left turn storage, so there is a median opening that would provide for a left turn, so the City has asked for a left turn bay. In addition, City Council Policy 8-2 provides for a right turn lane. The applicant has requested that they be relieved from both of these requirements because they are cost prohibitive. The requirements such as the left turn bay were noted in a letter from Rep. Benson to the planning commission so the idea of these requirements were apparent thirty years ago. Staff is recommending approval of the access, but denial of the request for a variance.

Wells questioned if there are different policies on how these things are done around town. They did not require a left turn for the Olive Garden complex on Cache Road where it is very hazardous and there is no deceleration lane on Cache Road to turn into that shopping area. Why are they going to enforce it on Lee Boulevard where there is less traffic?

Rogalski stated city code in general does not require a deceleration lane or right turn lane, however it was specifically listed in City Council Policy 8-2. The idea being that the section of Lee Boulevard that is limited access



is a higher speed area. As more access is allowed it will impair the traffic so if the right turn lanes are put in so that it does not impair it as much as it could. Council Policy 8-2 only applies to Quanah Parker and that area of Lee Boulevard which are access limited roadways that the City of Lawton controls. He stated with regards to the Olive Garden, a mistake was made by staff in that the lack of a turn bay was not noted. They have since received plans from the developer to build the left turn bay and they are currently under review.

Shoemate questioned if a signal light will be required at that location.

Rogalski state no.

MOVED by Wells, SECOND by Haywood, to approve an application for Access to a Limited Access Roadway for 5901 SW Lee Boulevard and approve their request for a variance to eliminate the requirement for construction of a right-turn lane and left-turn bay on Lee Blvd .

SUBSTITUTE MOTION by Drewry, SECOND by Zarle, to approve an application for Access to a Limited Access Roadway for 5901 SW Lee Boulevard and deny their request for a variance to eliminate the requirement for construction of a right-turn lane and left-turn bay on Lee Blvd . AYE: Zarle, Shoemate, Hanna, Drewry. NAY: Haywood, Wells. ABSENT: Burk, Shanklin. MOTION CARRIED.

31. Consider and take appropriate action on a request by Mr. Kent Waller, the concession operator of School House Slough to place a structure on leased property at Lake Lawtonka, near Lot #20 boathouse. Exhibits: Letter and site improvement documents.

Kim Shahan, Parks and Recreation Director, stated this item is in association to the concession lease at School House Slough. It is not a direct request for purposes used by the concession operator, but a request for a structure to be established on the concession property. The request has been made by Mr. Waller because he is the operator of the concession lease, but the request is being made by a boathouse proprietor to use the structure for his needs. The structure would have a restroom facility. The Lake and Lands Commission voted on May 6<sup>th</sup> to not approve the construction of the structure.

Shoemate questioned if this was going to be a private bathroom for Mr. Grayson.

Mayor Purcell stated if they approve this request, they will have to set up some kind of precedence for future requests.

Nick Garrett, Attorney for Mr. Waller, stated Mr. Waller is the only one who can ask for a structure to be built.

Mayor Purcell stated if they approve this one, it will be hard to say no to any future requests by Mr. Waller.

Mr. Garrett stated that Mr. Waller has indicated that he will not be back with another request such as this.

Jensen stated according to the concession lease, Mr. Waller may ask for improvements to be used by the public, not by one individual to serve as a boathouse space that is only a space on the water. No boathouse owner has any space on the shore.

Mr. Garrett stated that Mr. Grayson has lost his leg and is handicapped and that is why he has made this request. He stated this will be a benefit to the City of Lawton in the long run.

Jensen questioned how this would benefit the City of Lawton. Whoever is using that boathouse space is going to claim this as their private area and that is not legally correct.

Mr. Garrett has waived any fees that the City of Lawton might have to pay him for improvements on the property. He is doing that at his and Mr. Grayson s expense. Eventually it will become the property of the City and could be used for the patrol officers. This will be hooked to the same sewer line as the public restroom.

Jensen stated a boathouse owner only has the authorization to place a dock unit on the water, not on the shoreline. If this is the case, the leases would have to be expanded. He stated Mr. Waller has the authority to request to make improvements for use by the public, not by a private individual.

Mr. Garrett stated he does not see the legal issue.

Hanna stated if they agree to this they will just be opening it up for other requests and he cannot go along with this.

Mr. Garrett stated he cannot deny that others may also request their own bathroom, be he stated it will not come about through Mr. Waller at School House Slough.

Burk stated this might be different if this was a public restroom that all boathouse owners could access. He does believe that this will cause problems down the road if they allow this one private restroom.

Drewry stated the bathroom that is there is not necessarily handicap accessible. It is very difficult to get into.

Jensen stated the public restroom is supposed to be ADA accessible.

Burk stated he would like to have some clarification from Mr. Waller. He questioned if Mr. Shahan thought this was a good thing.

Shahan stated the structure could be beneficial to the City of Lawton. He does not agree with building a structure for the exclusive use of an individual.

Burk questioned who would pay the water and sewer bill.

Shahan stated the charges would be billed to Mr. Waller.

MOVED by Burk, SECOND by Hanna, to deny the request. AYE: Haywood, Wells, Shoemate, Hanna, Burk, Shanklin, Zarle. NAY: Drewry. MOTION CARRIED.

#### REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Haywood stated the Juneteenth celebration will start on June 19 at 7:00 p.m. at St. John Missionary Baptist Church. On Saturday, June 20<sup>th</sup> at 5:00 p.m. at Patterson Center, they will be having a lot of activities, music and barbeque.

Shanklin stated he drove out to the lake and he sees cables up declaring private property along the lake shore. There are trailers set back and he is sure those people live there year round. He did not think anyone could block access to the lake.

Shahan stated the property that is cabled on a regular basis is leased to the Lawton Boat Club. They have been given permission to control that property as a private facility.

Drewry stated this is south of the boat club area.

Shahan stated those are School House Slough proprietors. He stated when he was out there this area was not closed. If they are closed today, they should not be.

Shanklin stated it should not say private property.

Mayor Purcell stated the area in question sometimes has a gate open and sometimes it is closed.

Drewry stated the private property sign is down at the lake side and you cannot access the lake.

Shahan stated the area in question is the School House Slough concession operations. The day he was out there they were all unlocked. He stated they are not to have any gates controlling their properties and he will go out tomorrow. He will notify the police that those are not to be locked.

Shanklin stated after the five year lease with Mr. Waller they were supposed to renegotiate and they have never done that. They should be able to monitor his books to see the amount of money he is taking in and then they renegotiate.

Jensen stated there is supposed to be a renegotiation the start of every new five year option. The only thing he can see that has occurred since 1997 when the lease began is that it went from 2% to 3% over the first \$50,000 in gross sales. That is all that has happened during the term of this lease.

Shahan stated each time the five year lease comes up, that is brought before the City Council for review to be done.

Shanklin stated he remembers the conversations with Mr. Waller. His lease only includes the amount of money that it costs for him to build something and they should know what that is. He does not own anything out there, he owns the right to be there. He stated that was a sweetheart deal and they need to get it clarified right now.

Jensen questioned what kind of clarification.

Shanklin stated the only he has to sell is the property that he constructed and the face value.

Mayor Purcell stated they need to bring back the initial lease and whatever they did five years later.

Jensen stated they are in the third five year option.

Shanklin stated Mr. Waller is not the owner of property out there.

Jensen questioned if they are talking about the conversation he had with former councilmember Glenn Devine regarding improvements and the buyout clause.

Shanklin stated yes.

Jensen stated the buyout clause states that a new or succeeding lessee will be required as a precondition of being granted a lease on the lease premises to purchase all the buildings and improvements based on their structural value. An appraisal will be done of the market value of the improvements to date. The real controversy is if the City of Lawton has to buy out these improvements once his concession lease is over. He stated the provision says a new or succeeding lessee does, not the City of Lawton. Mr. Waller does not agree with this interpretation. The City of Lawton owns the property, it will never be a lessee.

Mayor Purcell stated the Council voted that if Mr. Waller could not sell it to the new lessee, then the City of Lawton was under no obligation to buy him out.

Jensen stated if a new or succeeding lessee gets this concession lease, there is a requirement for a buyout and there is a requirement for an appraisal of the value of the improvements.

Mayor Purcell stated that does not impact us. He requested that the City Council get a copy of the original agreement and the discussions that went on at that meeting and every meeting when the lease was renewed.

Jensen stated nothing was changed in 2007. Mr. Waller believes that the City of Lawton has to buy out his improvements and staff strongly disagrees.

Burk stated he feels everyone on this Council needs to go out to the lakes and see the areas they are talking about. He feels everyone would be upset about what is going on. They need to find some common ground as far as raising the fees but also providing the services they need. He does feel badly that they had to turn down Mr. Grayson's request. He applauded everyone for their hard work on the budget and the City Council should be commended because they worked very hard to get to where they are today. This is all about moving forward.

COL Lacey announced that the July 4<sup>th</sup> festivities on Fort Sill will be held on Friday, July 3<sup>rd</sup>. He stated Tim McGraw will be in concert and tickets can be purchased for \$30 ahead of time. Gates open at 6:00 p.m.

Mayor Purcell questioned how many council members were going to show up to tour the Lawton High building on Wednesday, June 17<sup>th</sup> at 9:30 a.m. He stated they will need to post something if there is a quorum. He stated while driving around town this weekend he has seen a lot of illegal signs springing up. He stated these signs are on medians, fire hydrants, poles, etc. He suggested that staff spend one day and go out and pick all of these up.

Mitchell announced that the Chautauqua event will be going on at the library the following week.

Mayor Purcell stated the opening reception will be held on June 15<sup>th</sup> at 5:00 p.m. at the Fort Sill Polo Club.

The Mayor and Council convened in executive session at 8:28 p.m. and reconvened in regular, open session at 8:40 p.m. Roll call reflected all members present.

#### BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

32. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending lawsuit in the District Court of Comanche County, State of Oklahoma, Bruce E. Harrison vs. City of Lawton, et al., Case No. CJ-2007-258, and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item 32. No action is required.

There being no further business to consider, the meeting adjourned at 8:41 p.m. upon motion, second and roll call vote.

\_\_\_\_\_/s/ John P. Purcell, Jr.\_\_\_\_\_  
JOHN P. PURCELL, JR., MAYOR

ATTEST:

/s/ Traci L. Hushbeck  
TRACI HUSHBECK, CITY CLERK